

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SIEMENS MEDICAL SOLUTIONS USA,)
INC.,)

Plaintiff,)

v.)

SAINT-GOBAIN CERAMICS &)
PLASTICS, INC.,)

Defendant.)

C.A. No. 07-190-SLR

**DEFENDANT'S UNOPPOSED MOTION FOR STAY OF ENFORCEMENT OF
JUDGMENT PENDING APPEAL PURSUANT TO FED. R. CIV. P. 62(d)**

Defendant Saint-Gobain Ceramics & Plastics, Inc. ("Saint-Gobain") hereby moves the Court for an Order, pursuant to Fed. R. Civ. P. 62(d), staying any enforcement of judgment, and any proceedings to enforce judgment, by execution or otherwise, pending the disposition of Saint-Gobain's appeal in the above-entitled matter.

The grounds for this motion are as follows:

1. On September 25, 2008, following a jury trial, the jury returned a verdict in favor of Siemens Medical Solutions USA, Inc. ("Siemens") and against Saint-Gobain. (D.I. 195).
2. On October 2, 2008, the Court entered Judgment on the jury's verdict in favor of Siemens and against Saint-Gobain, for monetary damages. (D.I. 199).
3. Following the Judgment, on October 16, 2008, Saint-Gobain timely filed a post-trial motion under Rule 50, for judgment as a matter of law, and under Rule 59, for a new trial or to alter or amend the judgment (remittitur). (D.I. 202).

4. On May 15, 2009, the Court issued a Memorandum Opinion denying Saint-Gobain's motion under Rule 50 but granting, in part, Saint-Gobain's motion under Rule 59. (D.I. 241). The Opinion reduced the amount of the damages awarded to Siemens.

5. On June 1, 2009, Saint-Gobain filed a motion pursuant to Rule 59 to modify the reduced damages award.

6. On December 16, 2009, the Court issued a Memorandum and Order denying Saint-Gobain's motion under Rule 59. (D.I. 251).

7. On December 16, 2009, the Court entered a Final Judgment in favor of Siemens and against Saint-Gobain in the amount of \$50,469,703 plus post-judgment interest. (D.I. 252).

8. On December 23, 2009, Saint-Gobain filed its Notice of Appeal. (D.I. 253).

9. Rule 62(d) of the Federal Rules of Civil Procedure provides that: "If an appeal is taken, the appellant may obtain a stay by supersedeas bond . . . The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the court approves the bond." Fed. R. Civ. P. 62(d).

10. Saint-Gobain's Notice of Lodging of Supersedeas Bond, including a copy of the bond, is being filed contemporaneously with this Motion. The total bond is in the amount of \$52 million.

11. The bond will protect Siemens' interests pending disposition of the appeal by remaining in effect until: (i) Saint-Gobain pays the judgment; (ii) Saint-Gobain pays the amount of any judgment that survives Saint-Gobain's appeal; or (iii) the judgment is vacated on appeal. The amount of the bond is sufficient to cover the judgment amount plus an estimate of any additional interest and costs.

12. Pursuant to Local Rule 7.1.1, Saint-Gobain contacted Siemens regarding the matters set forth in this motion. Siemens informed Saint-Gobain that Siemens does not oppose this motion, including the amount of the bond.

WHEREFORE, Saint-Gobain respectfully requests that the Court approve Saint-Gobain's bond, and issue an Order pursuant to Fed. R. Civ. P. 62(d) staying any enforcement of judgment, and any proceedings to enforce judgment, by execution or otherwise, pending disposition of Saint-Gobain's appeal.

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Attorneys for Defendant/ Counterclaim-Plaintiff

Saint-Gobain Ceramics & Plastics, Inc.

Dated: February 12, 2010

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE


I hereby certify that on February 12, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF which will send notification of such filing to the following and which has also been served as noted:

BY HAND DELIVERY

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